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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

NOTICE OF POTENTIAL LIABILITY AND
NOTICE OF DECISION NOT TO USE SPECIAL NOTICE PROCEDURES
FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY
URGENT LEGAL MATTER: PROMPT REPLY REQUIRED
CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Clearview Land Development Company
c/o Richard R. Heller, President
312 Woodbridge Lane
Wallingford, PA 19086

JUN 11 2002

**Re: Lower Darby Creek Area Superfund Site - Clearview Landfill
Delaware County, Pennsylvania**

Dear Mr. Heller:

This letter notifies the Clearview Land Development Company (hereinafter "you") that you may incur, or may have incurred, liability under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607(a), with respect to the Lower Darby Creek Area Superfund Site ("Site"). This letter also notifies you of potential response activities at the Site, which you may be asked to perform or pay for at a later date if EPA performs them.

SITE BACKGROUND

CERCLA, more commonly known as Superfund, has several key objectives including setting priorities for cleanup of the worst hazardous sites in the country, and, determining the parties potentially responsible for investigating, cleaning up or paying the costs of cleaning up such hazardous sites. These parties are referred to as "potentially responsible parties" or "PRPs."

On June 14, 2001, the United States Environmental Protection Agency ("EPA") included the Site on the National Priorities List ("NPL"), a list of the most serious uncontrolled or abandoned sites at which releases of hazardous substances have occurred or may occur. The Site consists of the former Clearview Landfill, and the former Folcroft Landfill ("Folcroft") and Folcroft Landfill Annex ("Annex"). This letter concerns only the Clearview Landfill and adjacent property. The Folcroft Landfill and Folcroft Landfill Annex are being addressed separately.



The Clearview Landfill is currently owned by the Clearview Land Development Company. Disposal may have also taken place on property adjacent to the Clearview Landfill currently owned by the City of Philadelphia.

NOTICE OF YOUR POTENTIAL LIABILITY

EPA has evaluated information in connection with the investigation of the Site. Based on this information, EPA believes that you may be a PRP for this Site. PRPs under CERCLA include: 1) current owners and operators of the site; 2) owners and operators of the site at the time hazardous substances were disposed; 3) persons who arranged for disposal or treatment of hazardous substances sent to the site; and 4) persons who accepted hazardous substances for transport to the site, and who selected the site for disposal. These categories are set forth in Section 107 of CERCLA, 42 U.S.C. § 9607.

Based on State and Federal records and/or other information, EPA has information indicating that you are a PRP for this Site. Specifically, EPA has reason to believe that you are liable as a person who owned and operated the Site at the time hazardous substances were sent to the Site. In addition, EPA has reason to believe that you are liable as a person who currently owns the Clearview Landfill. You have owned the property on which the Clearview Landfill is situated since 1958. You also operated an illegal waste disposal site at and adjacent to the Clearview Landfill on property owned by you and by the City of Philadelphia from 1958 through 1976.

The EPA has documented the release or threatened release of hazardous substances, pollutants or contaminants at or from the Site, as those terms are defined in Sections 101(14) and 101(33) of CERCLA, 42 U.S.C. §§ 9601(14) and (33). EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a PRP or PRPs will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, or require them to be performed by responsible parties under Section 106 of CERCLA, 42 U.S.C. § 9606.

EPA may order PRPs, or any one of them, to perform response actions deemed necessary by EPA to protect the public health, welfare or the environment. Additionally, PRPs may be liable for all costs incurred by the government in responding to any release or threatened release at the Site, under Sections 104 and 107(a) of CERCLA, 42 U.S.C. §§ 9604 and 9607(a), and the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6901 et seq., and other laws. Such actions and costs may include, but are not limited to, conducting a Remedial Design/Remedial Action ("RD/RA"), and other investigation, planning, response, oversight, and enforcement activities related to the Site. In addition, potentially responsible parties may be required to pay for damages for injury to, destruction of, or loss of natural resources, including the cost of assessing the amount or extent of such damages related to a site.

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You should also be aware that once a site is placed on the NPL pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, it cannot be deleted until after an RI/FS has been completed and the necessary remedial action has been conducted in accordance with EPA guidance and the National Contingency Plan ("NCP"), published at 40 C.F.R. Part 300.

By this letter, EPA notifies you of its potential liability with regard to this matter and encourages you to perform or to finance voluntarily those response activities that EPA determines to be necessary at the Site.

SITE RESPONSE ACTIVITIES

In accordance with CERCLA and other authorities, EPA has already undertaken certain actions and incurred certain costs in response to conditions at the Site.

EPA involvement at Clearview Landfill began with a Preliminary Assessment on January 1, 1982 and a Site Inspection ("SI") completed June 1, 1984. The Clearview Landfill was reinspected as part of a Site Inspection of the entire Site completed on August 17, 1999. The Site was assigned a Hazardous Ranking System ("HRS") score of 50 and was proposed for National Priorities List ("NPL") on May 11, 2000. The Lower Darby Creek Area Superfund Site was officially added to the NPL on June 14, 2001.

You may be asked at a later date to undertake, or may be liable for, any additional measures necessary to protect public health, welfare, or the environment. Such measures may include but are not limited to designing and implementing the EPA-approved remedial option and providing monitoring and maintenance necessary after remedial measures are completed.

EPA may expend additional funds for response activities at the Site under the authority of CERCLA and other laws.

DECISION NOT TO USE SPECIAL NOTICE

Under CERCLA Section 122(e), 42 U.S.C. § 9622(e), EPA has the discretionary authority to invoke special notice procedures to negotiate formally the terms of an agreement between EPA and PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the site while formal negotiations between EPA and the PRP or PRPs are conducted.

In this case, EPA has decided not to invoke the Section 122(e) special notice procedures because use of such procedures is not practicable or in the public interest, nor would use of such procedures facilitate an agreement or expedite remedial action. In particular, EPA has not identified a sufficient number of PRPs who, individually or collectively, have the resources to begin or conduct response activities in the immediate future. EPA intends to conduct the Remedial Investigation and Feasibility Study ("RI/FS") for the Clearview Landfill portion of the Site. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium.

FUTURE FINANCIAL REVIEW

If you wish to settle, but you believe you would face a severe financial hardship by remitting the full payment amount, you may request that the EPA review your financial ability to pay. Under EPA policy, it is also possible in appropriate circumstances for payment to be made in installments. This may be considered as part of EPA's financial review. To process a claim of financial hardship, the EPA will require you to substantiate that claim by submitting detailed financial documentation.

INFORMATION TO ASSIST RESPONSIBLE PARTIES

EPA encourages good faith negotiations between the PRPs and EPA, as well as among the PRPs. Therefore, EPA is providing a list of the names and addresses of PRPs to whom this notification is being sent or who have previously been notified as an attachment to this letter. This list represents EPA's preliminary findings on the identities of the PRPs for this Site. Inclusion on, or exclusion from, the list does not constitute a final determination by EPA concerning the liability of any party for the release or threat of release of hazardous substances at or from the Site.

PRP STEERING COMMITTEE

EPA recommends that all PRPs meet to select a Steering Committee responsible for representing the group's interests. Establishing a manageable group is very important for successful negotiations with EPA. EPA representatives are available to meet or confer with the PRPs or a steering committee on a mutually convenient date in the near future.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), 42 U.S.C. §9613(k), EPA establishes an administrative record that contains documents which form the basis for EPA's decision on the selection of each response action for a site. The administrative record will be available to the public for inspection and comment before any remedy is selected by EPA. A copy of the record will be located near the Site, and another copy will be located at the EPA Regional office in Philadelphia. The contact person for comments on the record will be provided with the record when such record is available for review at these locations.

PRP RESPONSE AND EPA CONTACT

You are encouraged to contact EPA in writing within fourteen (14) days of the receipt of this letter to express your willingness or unwillingness to participate in future negotiations concerning this Site. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that you have declined any involvement in performing the response activities described above. You may be held liable under Section 107 of CERCLA for the cost of the response activities EPA performs at the Site and for any damages to natural resources.

Your response should be addressed to:

Ms. Kristine Matzko (3HS21)
Remedial Project Manager
United States Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103

The factual and legal discussions contained in this letter are intended solely for notification and information purposes. They are not intended to be, and cannot be relied upon, as a final EPA position on any matter set forth herein.

If you have any questions regarding the foregoing, please contact Carlyn Winter Prisk, Civil Investigator, at (215) 814-2625 or have your attorney contact Brian Nishitani, Senior Assistant Regional Counsel, at (215) 814-2675.

Sincerely,


Abraham Ferdas, Director
Hazardous Site Cleanup Division

Enclosure

cc: Craig Olewiler (PADEP - Harrisburg)
April Flipse (PADEP - Conshohocken)
Kristine Matzko, (3HS21)
Brian Nishitani (3RC44)
Carlyn Winter Prisk (3HS11)
James Asher Lynch, III, Esq. (Counsel to Clearview Land Development Company)

**PRPs RECEIVING GENERAL NOTICE OF POTENTIAL LIABILITY AND
NOTICE OF DECISION NOT TO USE SPECIAL NOTICE PROCEDURES
FOR THE LOWER DARBY CREEK AREA SUPERFUND SITE
CLEARVIEW LANDFILL**

City of Philadelphia

John Street, Mayor
215 City Hall
Philadelphia, PA 19107

Legal Contact: Patrick O'Neill, Assistant Solicitor
City of Philadelphia, Law Department
One Parkway, 1515 Arch St.
Philadelphia, PA 19102-1595.
215-683-5172.

City Wide Services, Inc.

Michael Heller, President
P.O. Box 1235
Sharon Hill, PA 19079

Legal Contact: James Asher Lynch, III
66 W. Eagle Rad
Havertown, PA 19083
(610) 446-4340

Clearview Land Development Company

c/o Richard R. Heller, President
312 Woodbridge Lane
Wallingford, PA 19086

Legal Contact: James Asher Lynch, III
66 W. Eagle Rad
Havertown, PA 19083
(610) 446-4340

Richard R. Heller
312 Woodridge Lane
Wallingford, PA 19086

Legal Contact: James Asher Lynch, III
66 W. Eagle Rad
Havertown, PA 19083
(610) 446-4340

United States of America
Department of the Navy
Engineering Field Activity, Northeast
Naval Facilities Engineering Command
Ralph Lombardo, Esq.
10 Industrial Highway, Mail Stop #83
Lester, PA 19113-2090

Legal Contact: David Grasso, Esq.
(215) 595-0567

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Clearview Land Development Co
c/o Richard R. Heller, President
312 Woodbridge Lane
Wallingford, PA 19086

2. Article Number

(Transfer from service label)

7000-0520-0025-2485-1364

COMPLETE THIS SECTION ON DELIVERY

A. Signature



☒ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

PS Form 3811, August 2001

Domestic Return Receipt

102595-01-M-2509

Clearview Land Development Co.
c/o Richard R. Heller, President
312 Woodbridge Lane
Wallingford, PA 19086



7000 0520 0025 2485 1364

CERTIFIED MAIL

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III
1600 ARCH STREET
MAIL CODE 341511
PHILADELPHIA, PA 19104-2009
OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE \$300